

HOUSE BILL REPORT

HB 1516

As Reported By House Committee On:
Corrections

Title: An act relating to sentencing for crimes committed by gang members.

Brief Description: Prescribing penalties for criminal street gang activities.

Sponsors: Representatives Ludwig, Mastin, Lisk, Bray, Kremen, Dorn, Flemming, Basich, Morris, Kessler, Schmidt, Vance, Mielke, Ballasiotes, Johanson, Finkbeiner, Chandler, Hansen, Orr, Grant, Lemmon, Romero, Chappell, Forner, Tate, Campbell, Van Luven, Edmondson, G. Fisher, Sehlin, Holm, Brough, Casada, Scott, R. Meyers, Fuhrman, Miller, Karahalios, Foreman, Brumsickle, Wood, Silver, Horn, Cothorn, Long, Valle and Talcott.

Brief History:

Reported by House Committee on:
Corrections, February 25, 1993, DPS.

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Morris, Chair; Mastin, Vice Chair; Long, Ranking Minority Member; Edmondson, Assistant Ranking Minority Member; L. Johnson; Ogden; Riley; and Padden.

Minority Report: Do not pass. Signed by 1 member: Representative G. Cole.

Staff: Jim Lux (786-7841).

Background: Definitions of terms used in conjunction with the Sentencing Reform Act are found in RCW 9.94A.030. Unless the context of these terms is clearly expressed otherwise, the definitions of this section apply throughout the Sentencing Reform Act.

If certain circumstances are present, current law provides the sentencing court with the authority to sentence outside the standard range. Both mitigating and aggravated circumstances can be considered by the judge for sentencing outside the standard range. The criteria for the court to

sentence outside the standard ranges are contained in RCW 9.94.390.

Summary of Substitute Bill: The term "criminal street gang" is defined and added to the definition section of the Sentencing Reform Act. Criminal street gang means any ongoing group of three or more persons that has as one of its primary activities the commission of a criminal act or acts.

Factors the court may consider concerning offenses committed by gangs are added to the section of statute covering exceptional sentences. If the offense or offenses result from a recognized gang as defined in this legislation, the judge may sentence outside the standard range. An exceptional sentence for gang related offenses is appealable in the same manner as any other exceptional sentence.

Substitute Bill Compared to Original Bill: The original language defined "pattern of criminal gang activity" in the definition section of the Sentencing Reform Act. The reference to pattern of street gang activity was removed from the definition of "criminal street gang."

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 1993.

Testimony For: Many gang related crimes are more violent and can be better addressed by the courts through the use of exceptional sentences, when the commission of the crime results from criminal conduct by gang members.

Testimony Against: This legislation will result in increased discrimination against minority groups and the definition of gangs is too vague and subject to interpretation and abuse. Existing law already has aggravating factors for the court to consider when sentencing offenders, who are gang members, to longer terms of punishment.

Witnesses: (Pro): Representative Curt Ludwig, prime sponsor; and Matt Thomas, Washington Association of Prosecuting Attorneys. (Con): Representative Jesse Wineberry; Martha Collins, parent; Arnita Benson, citizen; Peggy Grant, PHASE; Annie Daniels, Coalition for Change; Reverend James Hicks, Church of God in Christ; Raymond Miller, PHASE; Carolyn Daniels, citizen; Theola Hall-Austin, citizen; Helen Hicks, parent; Maurice Gosby, citizen; and Jerry Sheehan, American Civil Liberties Union.